

*MAINTAINING
DOA - 77-1675*

4 MAR 1977

MEMORANDUM FOR: Director of Central Intelligence-Designate

FROM : John F. Blake
Deputy Director for Administration

SUBJECT : CIA Retirement and Disability System

REFERENCE : Memo dated 2 March 1977 from [REDACTED]
regarding Admiral Turner's inquiry

STATINTL

1. This is in response to the referent memorandum concerning the "CIA Retirement and Disability Act" amendments.

2. All but ^{three} ~~one~~ of the 1976 amendments to the CIA Retirement Act dealt with changes which had been previously enacted for the Civil Service Retirement Act in substantive areas which were comparable to provisions in the Agency's retirement system. A summary of the various amendments is attached (Tab A). ~~One~~ significant amendment authorizes the President, by Executive Order, to maintain conformity between the Civil Service Retirement Act and the CIA Retirement Act with respect to substantially identical provisions. This feature eliminates the need to resort to the legislative process to maintain conformity.

3. The detailed review of the legislation was by the House Armed Services Subcommittee on Investigations. The Senate Select Committee on Intelligence facilitated Senate passage by accepting the House Armed Services Committee's report and by scheduling Senate floor action in the final days of the 94th Congress.

4. The only problem that arose during Congressional consideration was when Representative Samuel S. Stratton (Democrat, New York), a member of the Subcommittee on Investigations, questioned whether the Agency had implemented

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the law consistent with its provisions and the intent of Congress. He claimed that it was his recollection that the law was intended only to provide early retirement for those operational officers who were "burned out" and could no longer meet rigorous job demands. While the House Armed Services Committee reported the legislation favorably, it required an investigation of the Agency's administration of the system to be submitted to the Committee by 1 October 1976, and annually thereafter. The first investigation was conducted by Mr. Andrew Ruddock, former Director of the Bureau of Retirement, Insurance and Occupational Health, who administered the Civil Service Retirement System. Mr. Ruddock concluded that the law and the legislative history clearly showed that the program was intended not solely to remove officers who were "burned out," but also to enable the Agency to manage attrition of participants in this retirement system and to allow early retirement with slightly higher benefits for those whose careers were foreshortened in the interests of the Agency. A principal purpose was to assure that the operational cadre would remain young and vigorous. The report was forwarded to the Chairman of the House Armed Services Committee on 6 October 1976. Copies were also supplied to the staff of the Senate Select Committee. TAB 'D'

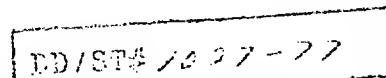
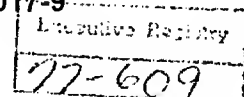
5. I have attached a copy of Mr. Ruddock's report (Tab B) in the hope that you may find time to read it. It provides a quick review of the origins of the CIA Retirement System, its purpose and implementation since enactment, as well as Mr. Ruddock's conclusions concerning the administration of the system.



John F. Blake

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Attachments



2 March 1977

PERS 77-701

MEMORANDUM FOR: Acting Director of Central Intelligence
FROM: Executive Assistant to DCI-Designate

Admiral Turner would like to know the implication of the "CIA Retirement and Disability Act" amendments and how did the Select Committee help in getting that through. What problems were there with that amendment?



Commander, U.S. Navy

STATINTL

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EMPLOYEE BULLETIN

STATINTL EB

14 January 1977

AMENDMENTS TO THE CIA RETIREMENT ACT

Public Law 94-522, enacted 17 October 1976, amended the Central Intelligence Agency Retirement Act of 1964 for Certain Employees in several significant respects. Outlined below is a brief description of all of the provisions contained in P.L. 94-522. With the exception of Item n, all of the amendments conform to provisions in effect under the Civil Service Retirement Act.

a. Increase Annuities Based on a Retirement Prior to
20 October 1969

The annuity payable to an annuitant who retired or separated before 20 October 1969 will be increased by \$20.00 per month. A survivor annuity to a widow or widower, not to a child, of an annuitant who retired or separated before 20 October 1969 will be increased by \$11.00 per month. These increases are effective retroactively to 1 August 1974.

b. Effect of Title II of Social Security Act on Annuities

The law now provides that the monthly rate of annuity payable under the CIA Retirement Act shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under Title II of the Social Security Act. This provision is effective as of 1 August 1974.

c. Survivor Annuity to "Second" Spouse of Retiree Who Was
Married at Time of Retirement

Heretofore, married employees, unless they elected "an annuity without survivor benefit" at the time of retirement, had to designate his or her spouse and only the spouse so designated could receive a survivor annuity benefit.

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If the designated spouse predeceased or was divorced from the retiree and the retiree later remarried, the new spouse could not qualify for the survivor annuity. The change in law automatically substitutes the retiree's surviving spouse acquired after retirement for the one designated at the time of retirement. The amount of annuity to the spouse acquired after retirement is the same as would have been payable to the spouse designated at the time of retirement had that spouse survived the retiree.

To qualify for a survivor annuity, the surviving spouse, if acquired after retirement, must have been married to the retiree for at least one year (two years in the case of participants who died before 9 April 1974) immediately preceding the death or be the parent of a child by marriage to the participant and must elect the survivor annuity instead of any other survivor benefit to which entitled under any retirement system for Federal employees. This amendment shall not apply in the case of participants who died before 8 January 1971.

d. Survivor Annuity to Spouse of Retiree Who Was Unmarried at Time of Retirement

The change in law permits a retiree who was unmarried at the time of retirement to change the earlier election of "single life" or "insurable interest" to provide a survivor benefit for the spouse if married after the date of retirement. Such a post-retirement election of "reduced annuity with survivor benefit to spouse" must be in writing, signed by the retiree, and received by the retirement system within one year from 17 October 1976, the date of the enactment of P.L. 94-522, or within one year from the date of the post-retirement marriage, whichever is later.

Upon receipt of such a post-retirement election, the retiree's current annuity will be recomputed and appropriately reduced to provide for the survivor benefit. The reduced annuity is effective the first day of the month after the election is received. The spouse's annuity will be the same as though the retiree had been married to the spouse at the time of retirement.

Once such a post-retirement election has been accepted by the retirement system, it cancels the previous "single life" or "insurable interest" election and is irrevocable.

To qualify for a survivor annuity, the surviving spouse acquired after retirement must have been married to the retiree for at least one year immediately preceding death or be the parent of a

child by marriage to the participant and must elect the survivor annuity instead of any other survivor benefit to which entitled under any retirement system for Federal employees.

e. Elimination of the Annuity Reduction During the Period Annuitant is Unmarried

The new law eliminates the annuity reduction for months during which the annuitant is not married. Thus, when a marriage of an annuitant is dissolved due to death, divorce or annulment, the annuity will be recomputed to eliminate the reduction for survivor benefits beginning with the month following the one in which the marriage was dissolved, and for each full month thereafter during which the annuitant is not married. If and when the annuitant is again married, the annuity will be reduced beginning the first day of the month in which the remarriage occurred. The elimination or restoration of the reduction when a spouse predeceases the annuitant or when an annuitant remarries, the effective date thereof, is by operation of law and is not dependent upon receipt of appropriate or timely notice from the annuitant; nor can the annuitant, upon remarriage, elect continuation of the single-life and unreduced annuity.

The increases in annuity provided by this change in law may not be paid for any month prior to November 1974.

f. Elimination of Dependence Requirement for Widower

Heretofore, the widower of a woman employee was not entitled to a survivor annuity unless, among other requirements, he (1) was incapable of self-support because of mental or physical disability and (2) had received more than half of his support from his wife.

The change in law eliminates these two eligibility requirements effective 8 January 1971 for any widower whose wife-employee died. The effect of the change is to make the conditions of entitlement to a survivor annuity for a widower the same as for a widow.

g. Statement Regarding Survivorship Election

A new provision now requires that a married participant who, at the time of retirement, does not desire a surviving spouse to receive an annuity, must so state in writing to the Director of Central Intelligence.

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h. Disability Annuitants Subject to 80 Percent Earnings Limitation

The law now provides that if a disability annuitant before reaching age 60 is restored to earning capacity, annuity payments stop one year from the end of the year in which earning capacity is restored. Earning capacity is deemed restored if, in each of two consecutive years, the income of the annuitant from wages or self-employment, or both, equals at least 80 percent of the current rate of compensation of the position occupied immediately prior to retirement. Each disability annuitant under age 60 is now required to file a Report of Income Form on an annual basis. Failure to file a Report of Income will result in the suspension of the disability annuity payment. If the disability annuity is discontinued because of restoration to earning capacity, an immediate non-disability annuity can be initiated under certain conditions if the disability annuitant meets the eligibility criteria.

i. Time Limit for Filing Applications for Disability Retirement

The new law permits an employee who separated or retired on non-disability to apply for disability retirement, but such application must be filed within one year from date of separation or retirement from the Agency. This time limitation may be waived by the Director for a participant or annuitant who at the date of separation from the Agency or within one year thereafter is mentally incompetent, if the application is filed with the Agency within one year after restoration of the participant or annuitant to competency or the appointment of a fiduciary, whichever is earlier.

j. Change in Payment Period for Disability Annuitants Who Have Recovered

Heretofore, in the case of a disability annuitant who was found to be recovered, payment of the annuity continued until a date six months after the date of examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. The new law, effective 1 October 1976, changes the payment period from six months to one year.

k. Survivor Annuity to a Child in Process of Adoption

The new law permits the payment of a survivor annuity to a child who lived with and for whom a petition for adoption was filed by a participant and who is adopted by the surviving spouse after the participant's death. This amendment shall not apply in the case of participants who died before 8 January 1971.

1. Credit for Service While in Receipt of Benefits Under Federal Employees Compensation Act

The change in law allows for a participant or former participant who returns to Government duty after a period of separation to have included in the period of creditable service that part of the period of separation in which the individual was receiving benefits under Chapter 81 of Title 5, United States Code. Such service shall be counted whether the person returns to duty before, on, or after 8 January 1971. With respect to any person already retired, any such part of a period of separation shall be counted only upon application of the retired person. Annuity payments accruing under this provision are payable only for full months beginning after 8 January 1971.

m. Designation of Beneficiary for Disposition of Retirement Contributions in Excess of Benefits Received

The law amended item (1) of the Order of Precedence which operates in the case of a lump-sum payment to read as indicated below. Items 2 through 6 were not changed but are repeated for information purposes.

- (1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Agency before his (her) death. For this purpose, a designation, change or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;
- (2) If there be no such beneficiary to the surviving wife or husband of such participant;
- (3) If none of the above, to the child or children of such participant and descendents of deceased children by representation;
- (4) If none of the above, to the parents of such participant or the survivor of them;
- (5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;
- (6) If none of the above, to other next of kin of such participant as may be determined by the Director in his judgment to be legally entitled thereto.

n. Authority to Maintain Existing Areas of Conformity Between Civil Service and Agency Retirement Systems

Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Agency Retirement System with respect to substantially identical provisions, he may, by Executive Order, extend to current or former participants and annuitants in the Agency Retirement System, or to their survivors, those similar provisions of law enacted after January 1975 for Civil Service. This provision eliminates the need to resort to the lengthy legislative process to obtain for our system certain provisions enacted for the Civil Service System.

o. Recovery of Payments

A new provision now permits the Director to waive the recovery of payments from an individual under the Retirement Act when in the judgment of the Director the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by the Retirement Act on account of a certification or payment made by a former employee of the Central Intelligence Agency in the discharge of official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.

p. Financing of the Fund

The law authorizes annual appropriations to the Retirement Fund to maintain the system on a sound financial basis.

DISTRIBUTION: ALL EMPLOYEES

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

6 OCT 1976

Honorable Melvin Price, Chairman
Committee on Armed Services
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

You will recall that during the course of the Committee's consideration of H.R. 13615, a bill to amend the CIA Retirement and Disability Act, the Committee noted in its report that in administering this Act during recent years, the Agency may have deviated in some respects from the original intent of Congress. The Committee, in the exercise of its oversight function, directed the Agency to conduct a careful analysis of the application of the qualifying provisions of section 203 of this Act in designating participants, and that I should report the results of this analysis to the Committee by 1 October 1976 and annually thereafter. This letter transmits that report.

In implementing the Committee's directive, it was my aim to ensure that the review of the Agency's administration of the Act was conducted as objectively and carefully as possible. Thus, we chose not to use Agency officers to conduct the study, but instead an outside person who would have no personal or professional interest in the outcome of the study. In this effort we were fortunate in being able to engage Mr. Andrew E. Ruddock to conduct the study.

Mr. Ruddock retired from the Federal Government in December 1973 after 34 years of outstanding service. For many years prior to his retirement, he was Director, Bureau of Retirement and Insurance, Civil Service Commission. Not only is he an acknowledged expert in the field of retirement, but his reputation for honesty, integrity and executive ability is widespread throughout Government, and especially

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in the Congress. It is noteworthy that upon the occasion of his retirement, many testimonials were inserted into the Congressional Record in tribute to his professional abilities, candor and helpfulness to the Congress, especially to the House and Senate Committees on Post Office and Civil Service.

Mr. Ruddock's report is submitted herewith for review by members of the Committee and your staff. Mr. Ruddock has concluded that the Agency has administered the CIA Retirement System essentially within the intent of Congress and the law which authorized this system.

Mr. Ruddock's report makes clear that on the matter of designating employees as participants in the system, the legislative history reflects that while types of service that could lead to impairment or future usefulness may justify retirement under the system, this is not a requirement for each individual retirement case. The legislative history recognizes and the law permits voluntary retirement at early ages (no doubt in some cases before impairment detracts from performance or usefulness), and the law recognizes that many careers will not be impaired at all and may continue to the statutory mandatory retirement age.

Mr. Ruddock's report discusses in some detail the Agency practice, authorized by its regulations, of designating employees as participants after 18 months of qualifying service. You may recall that this procedure was of particular concern to Congressman Stratton of the Committee. Mr. Ruddock notes, however, that this form of designation is only an initial designation; full and final vesting as a right to actual retirement under the System is made only at the completion of the attainment of 60 months of qualifying service and the completion of 15 years with the Agency. Nonetheless, in his examination of our procedures for designating participants and for periodic reviews of their eligibility to remain as participants, Mr. Ruddock found these administrative steps to be time consuming and of no advantage to either the Agency or the employee involved. He suggests that an employee be designated only once and when he has attained the full 60 months of qualifying service, and we plan to accept his view on this.

Mr. Ruddock's report cites two possible deviations in the designation of participants. One was the result of a temporary liberal approach in 1968-1969 to crediting some domestic service as qualifying service for a limited number of retirements. In 1968 the Agency faced a need to reduce total strength and, at the same time, faced the problem of freeing personnel spaces in order to permit new hiring. Somewhat by coincidence, it found that the quota of 400, fixed by Congress as the number of retirements, was not going to be fully used. Consequently, the Agency liberalized its judgment as to what constituted domestic qualifying service. Mr. Ruddock points out, however, that only 58 domestic service cases were approved during this period of time -- still leaving unused quota -- and that many of the 58, perhaps as many as half, would have been approved without any relaxation of the application of the criteria. Even in these cases, he found that the Agency required specific demonstration that the type of service performed by the employee was within the law and regulations; but it accepted a lesser degree of hazard and less stringent security requirements and adopted a more tolerant view of what kinds of Agency service made it difficult for a retiree to obtain other employment.

The second deviation that he notes is the result of applying too restrictive an approach in the use of criteria in section 111(3) of the Act. That section of the law reads:

"Qualifying service" means service performed as a participant in the system or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in section 203.

Mr. Ruddock points out that all designations made by the Agency were made under the second criterion in the above definition of qualifying service and that the Agency has never given credit for all service performed as a participant. He construes this as a restrictive practice by the Agency and clearly points out that steps should be taken to conform practice to the law. We believe that our plan to change Agency regulations to require designation only after completion of 60 months of qualifying service takes care of this concern.

In his analysis Mr. Ruddock concludes that the CIA Retirement and Disability System has been a very useful tool of Agency management and has served the purposes articulated by the Congress and the Agency in its early design and enactment. I am greatly comforted by his conclusion on page 99 of his report that except for the 1968-1969 relaxation and the restrictive policy applied to the qualifying of domestic service, he could find no deviations from basic policy adopted in the original implementation of the CIA Retirement and Disability System.

I and members of my staff will be happy to meet with you and members of the Committee to respond to questions you may have. Mr. Ruddock has also expressed his willingness to appear before the Committee to respond to questions concerning the scope and substance of his report.

Sincerely,


George Bush
Director

Enclosure

Analysis of Designation of Participants
Under Section 203 of the CIA Retirement Act
by Andrew E. Ruddock

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